

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

MARY A. DUNCAN

Plaintiff,

v.

CIVIL ACTION NO. 1:13-cv-00039-M-LDA

WELLS FARGO BANK, N.A., AS TRUSTEE
FOR OPTION ONE MORTGAGE LOAN
TRUST 2005-4, ASSET BACKED
CERTIFICATES, SERIES 2005-4, ALIAS,
AMERICAN HOME MORTGAGE
SERVICING, INC., F/K/A HOMEWARD
RESIDENTIAL, INC., ALIAS, AND JOHN
DOE, ALIAS

Defendants

**CONSENT JUDGMENT AND STIPULATION TO VALIDATE MORTGAGE, SET
ASIDE AND RESCIND FORECLOSURE, DISSOLVE LIS PENDENS, AND FOR
DISMISSAL WITH PREJUDICE**

Plaintiff, Mary A. Duncan ("Plaintiff"), and Defendants, Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2005-4, Asset Backed Certificates, Series 2005-4, and Homeward Residential, f/k/a American Home Mortgage Servicing, Inc. (collectively, "Defendants"), respectfully submit this Consent Judgment and Stipulation to Validate Mortgage, Set Aside and Rescind Foreclosure, Dissolve Notice of Lis Pendens, and for Dismissal with prejudice for entry by the Court:

1. The foreclosure sale of Plaintiff's real property commonly known as 29-31 Ruskin Street, Providence, Rhode Island (the "Property"), is hereby set aside, and the Foreclosure Deed Under Power of Sale in Mortgage to Wells Fargo Bank, N.A., as Trustee for Option One Mortgage Loan Trust 2005-4, Asset Backed Certificates, Series 2005-4, recorded on February 28, 2012, at Book 10203, Page 140, in the official records of the City of Providence is hereby rescinded.

2. The mortgage dated July 28, 2005, recorded on August 2, 2005, with the official records of the City of Providence at Book 7462, Page 239, and the note evidencing the indebtedness secured by such mortgage are hereby stipulated to be valid and of full force and effect, subject only to a modification agreement entered between the parties which shall also be recorded in the official records of the City of Providence.

3. The Notice of Lis Pendens, recorded on June 13, 2012, with the official records of the City of Providence at Book 10291, Page 154, is hereby dissolved.

4. This matter is hereby dismissed with prejudice accordingly, with each party to bear their own costs and fees and with all rights of appeal waived.

5. The Use and Occupancy payments made by Plaintiff to the Special Master as a result of these proceedings shall be divided equally between John B. Ennis, as attorney for Plaintiff, and Hinshaw & Culbertson, as attorneys for Defendants.

6. The parties warrant and represent that they have paid all retainer fees billed and waive the return of any retainer fee monies paid to the Special Master as a result of these proceedings.

Respectfully submitted,

MARY A. DUNCAN
By her Attorney,

HOMEWARD RESIDENTIAL F/K/A
AMERICAN HOME MORTGAGE
SERVICING, INC. AND DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS
TRUSTEE FOR SOUNDVIEW HOME LOAN
TRUST 2006-OPT5, ASSET-BACKED
CERTIFICATES, SERIES 2006-OPT5
By their Attorneys,

/s/ John B. Ennis

John B. Ennis, No. 2135
1200 Reservoir Ave.
Cranston, RI 02920
Telephone (401) 946-5006

/s/ Maura K. McKelvey

Maura K. McKelvey, No. 6770
Samuel C. Bodurtha, No. 7075
HINSHAW & CULBERTSON LLP
155 South Main Street
Providence, RI 02903
(401) 751-0842

Dated: August 1, 2014

BY ORDER:  

ENTER: _____